

Supreme Court of Kentucky

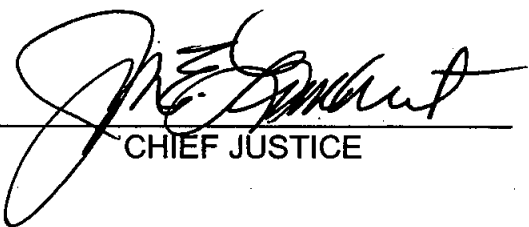
ORDER

**IN RE: ORDER APPROVING AMENDMENTS TO THE LOCAL RULES OF
PRACTICE FOR THE 9TH JUDICIAL DISTRICT, HARDIN DISTRICT
COURT**

Upon recommendation of the Judge of the 9TH Judicial District, Hardin District Court, and being otherwise sufficiently advised,

The amendments to the Local Rules of practice for Hardin District Court are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this court.

Entered this the 6 day of March, 2007.



CHIEF JUSTICE

**RULES OF PRACTICE
HARDIN DISTRICT COURT
(Revised October 2006)**

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**RULES OF PRACTICE
HARDIN DISTRICT COURT
(REVISED SEPTEMBER 2006)**

Pursuant to KRS 23A.010, RCr 13.02 and SCR 1.040 (3) (a), the following rules are adopted for procedure in the Hardin District Court and may be cited by the abbreviation "HDR" followed by the appropriate rule number:

RULE 1 - - EFFECTIVE DATE

1.01. Any rules of practice heretofore adopted by this Court shall be repealed, and the following rules shall take effect and be in force on and after the approval by the Chief Justice of the Supreme Court of Kentucky.

1.02. Any amendment, deletions from and additions to these rules shall take effect thirty days after they have been approved by the Chief Justice.

RULE 2 - - DIVISIONS

2.01. The Hardin District Court shall convene and transact business in two divisions, to be designated as "Hardin District Court, Division I" and "Hardin District court, Division II."

2.02. The Hon. John David Simcoe and his successors in office shall preside over Division I of this Court.

2.03. The Hon. Kimberly Winkenhof Shumate and her successors in office shall preside over Division II of this Court.

2.04. The designations "Division I" and "Division II" refer to the specific judicial office held by each judge and **Do Not** refer to the geographical locations of either of said divisions. All references to either division for purposes of pleadings, letters, and other documents shall be "Hardin District Court, Elizabethtown Division" or "Hardin District Court, Radcliff Division."

2.05. For general civil/probate cases, small claims and eviction cases, Hardin District Judges will alternate between Radcliff and Elizabethtown divisions every six months: (a) January 1 through June 30: Division I Judge in Elizabethtown and Division II Judge in Radcliff, and (b) July 1 through December 31: Division I Judge in Radcliff and Division II Judge in Elizabethtown. The judges reserve the right to alter that schedule in event of illness, emergency or any other special circumstances that might arise.

2.06. Assignment of Cases

(1) Civil cases. **All civil cases** shall be assigned to each division according to the geographical area in which the allegations arose. A map is attached with a graphic representation of the division boundaries. Essentially the Radcliff Division will handle all cases which arose north of Highway 434 to the east of Highway 31-W and which arose north of Highway 220 to the west of Highway 31-W. The Elizabethtown Division will handle all cases which arose south of highway 434 to the east of Highway 31-W and which arose south of Highway 220 to the west of Highway 31-W. This boundary shall govern the filing of cases unless a judicial recusal or emergency as deemed by the District Judges dictates otherwise. (This rule supercedes any prior standing orders involving specific types of cases such as flagrant nonsupport warrants or involuntary hospitalization (MIW) matters.)

These boundaries are set in the interest of justice to avoid "forum or judge shopping" and in the interest of judicial efficiency to allocate a similar caseload within the county and therefore may not be waived by parties, police agencies, clerks or attorneys.

(2) Criminal/Traffic cases: **All criminal and traffic cases** shall be assigned randomly by the clerks alternating between divisions so as to best keep a similar number of cases in each category of traffic/misdemeanor/felony. However, the clerk shall attempt to set co-defendants in the same division for judicial efficiency.

2.07. Inter-Division Transfers:

When the Judge of either division to which a case has been assigned shall be disqualified, when co-defendants are each pending cases, when the necessity for an early trial date arises, or when in the opinion of the Judges of both divisions offer good and sufficient reasons so require, upon orders signed by the Judges of both divisions, any proceeding may be transferred from one division to the other.

2.08. Absence of Presiding Judge.

(1) Criminal Cases. Regardless of the assignment of a proceeding to a particular division, the Judge of either division may, in the absence of the other, exercise jurisdiction and sign any order or entertain any proceeding requiring immediate attention when the Judge to which said proceeding is assigned is not readily available or is incapacitated to enter said order. This shall include search warrants, arrest warrants, bench warrants, summons, setting of bond, preliminary hearings, detention of juveniles, and any other matter requiring expeditious treatment.

(2) Civil Cases. Regardless of the assignment of a case to a particular division, the Judge of either division may in the absence of the other Judge sign a restraining order or other order needed for any temporary extraordinary relief until such matter can be considered by the Judge of the division to which said case has been assigned, provided the applicant's rights are being or will be violated and he or she will suffer immediate and irreparable injury by delay, as shown by verified complaint, affidavit or sworn proof. In like circumstances, either judge may sign Emergency Involuntary Hospitalizations.

RULE 3 - - JURY SELECTION AND MANAGEMENT

3.01. Procedures for the selection of persons to serve on juries shall be governed by the applicable Kentucky Revised Statutes and Administrative Procedures of the Court of Justice.

3.02. A new petit jury will be empaneled on the first Monday of each month except July and December. Once empaneled, a member of the petit jury shall continue to serve in that capacity until a new petit jury is empaneled or until the completion of the last case on which that juror was selected to serve, whichever occurs last. For any reason authorized by KRS 29A.100, the Chief Judge may excuse any juror from additional service at any time. If Monday is a holiday, they will be empaneled Wednesday.

3.03. The petit jury will receive orientation with the Circuit petit jury under the instruction of the Circuit Judges on the first Monday of each month in which a petit jury is seated, or at other time as designated by the Chief Circuit Judge.

3.04. Juror Qualification Forms. The Court is cognizant of the need to balance juror concern for privacy to minimize identity theft and retribution for jury service with counsel concern for informed jury selection to ensure an impartial jury panel. To that end, the Hardin District Court will allow limited access to Juror Qualification Forms. The District Judicial Secretary shall redact Page 2. Item D Phone numbers before releasing. The Hardin County Attorney and Office of Public Advocacy shall each be entitled to one copy of the set of Juror Qualification Forms for those jurors seated in the District Court petit jury. Such copy shall be released by the District Judicial Secretary 24 hours before the first trial of the month and counsel shall return that set to the District Judge on the last trial date of the month. Private counsel shall be allowed to check out one copy of the set of Juror Qualifications Forms from the District Judicial Secretary 24 hours prior to a scheduled jury trial and return that copy on the trial date to the District Judge. Under no circumstances shall anyone make additional copies of the set of Juror Qualification Forms or share the copy with anyone. The District Judicial Secretary shall note the set of forms as "Confidential/ Privileged Communication/Counsel Only."

RULE 4 - - CRIMINAL PROCEEDINGS

4.01. Arraignments

Prisoner arraignments will be held every weekday all year, except on court holidays as set by the Administrative Office of the Courts. Non-prisoner arraignments shall be held on Mondays, Wednesdays, and Fridays at 8:30 a.m. in Division I and at 8:45 a.m. in Division II. If a judge is ill or absent, he shall assign a trial commissioner or special judge to arraign or request the other judge to arraign all prisoners for the county. All arraignments for prisoners arrested since the last court date and still incarcerated shall be handled through video arraignment from the Hardin County Detention Center via video link in open court. Division I shall have first opportunity to link at 9:15 a.m. and Division II shall link at 9:30 or as soon thereafter as is practicable. The Judges may alter this video schedule on any given day due to malfunction, illness, absence or for convenience at the joint discretion of the judges. On days scheduled as juvenile court days, the adult prisoner arraignment shall be held via video link for both divisions in the division not holding juvenile court.

Attorneys or defendants may telephonically request a clerk to change an **arraignment date or an appearance with an attorney date** which is not for pre-trial conference, motion, or trial and the clerk shall be entitled to do so without conferring with a judge **so long as (1)** no prior continuance has been given, **(2)** the case is not a felony, **(3)** the continuance is within two weeks of the original court date, **and (4)** the new date is again scheduled as an arraignment or appearance with attorney.

4.02. Motion Calendar.

Motions in criminal cases which will not require a hearing in excess of 15 minutes and which will not require testimony may be scheduled on any Monday, Wednesday, or Friday, except holidays, at 8:30 a.m. for Division I and 8:45 a.m. for Division II. Any motion requesting a hearing in excess of 15 minutes or any motion requiring witness testimony shall be noticed by counsel for any Monday, or non-jury Wednesday or non-jury Friday at 9:30 a.m. Motions shall be filed at **least by 2:00 p.m. on the previous day** before motion shall be heard.

4.03. Jury Trials.

(1) Jury trials normally will be held in Division II on the Wednesday, Thursday and Friday of the first and third weeks of the month following empaneling, and in Division I on Wednesday, Thursday and Friday of the second and fourth weeks of the month following empaneling, except during July and December when no petit jury is convened. Once begun, trials may be continued to any day of the week in the discretion of the presiding judge.

(2) Additional jury trials may be scheduled during those weeks beginning with the fifth Monday of a month, or during the months of July and December in the discretion of the presiding judges.

4.04. Settlements - - Notification.

Upon the settlement of any criminal action which is set for trial, the parties or counsel shall immediately notify the Division Clerk of the fact of settlement and set the case for an 8:30/8:45 a.m. appearance to dispose of the case prior to trial date if practicable. The County Attorney shall notify the Kentucky State Police Crime Lab of each such settlement in which testimony has been subpoenaed or in which lab results are pending.

4.05. Representation by Counsel.

(1) Indigent Defendants.

All defendants charged with violation of the penal statutes who are found by the Court to be indigent shall be represented by the Hardin County Society for Indigent Criminal Defense, Inc., established under the Hardin County Public Advocacy System plan. The Court shall appoint a member of that organization to conduct the defense of the case, subject only to recoupment orders based on ability to pay if appropriate in the discretion of the Court.

(2) Withdrawal or Removal of Counsel.

(a) Appointed Counsel - - Except on a showing of extraordinary circumstances, counsel appointed by the Court will not be removed or permitted to withdraw on grounds of personality conflict or refusal of the defendant to cooperate with counsel. Appointed counsel may be allowed to withdraw if ability to pay for retained counsel is shown during representation, but before the day of trial. Withdrawal will not be allowed on the day of trial based on a defendant's newly acquired ability to pay for retained counsel.

(b) Retained Counsel - - Except for good cause shown, retained counsel who has appeared for the defendant at any proceeding will not be permitted to withdraw prior to entry of final judgment. "Good cause" does not include inability to collect an agreed fee. "Retained counsel" means any attorney authorized to practice before this Court who has not been appointed by the Court to represent the defendant.

(3) Attorney Appearances.

Attorney appearances shall be made with a client for arraignment on felonies. No attorney may appear on behalf of his client for pre-trial conferencing, preliminary hearing or trial and excuse the presence of the Defendant. Only the Court may excuse the presence of the Defendant for good cause shown. Motions made by attorney for the Defendant do not require the presence of the Defendant unless requested by either party and notice given to the Defense counsel. (e.g. Motion for bond assignment when affidavit filed, motion for new trial date, motion for discovery)

4.06. Traffic Court/Misdemeanor Court

In the interest of judicial efficiency and economy the following are accepted as local rules of practice concerning Traffic Court/Misdemeanor Court and attorneys, clerks, officers, and defendants may rely on these rules to govern their advice and actions.

(1) Insurance Charges, Registration Charges, No License, No License in Possession, Expired License, and Defective Equipment.

The Clerk may accept from the Defendant and file with the Court any proof of license, insurance, registration or proof of repair to be considered by the Court at the next scheduled date. However, the Clerk shall have no authority to release a Defendant from appearance and any Defendant failing to appear shall do so at his own peril. If proof is adequate for dismissal, no appearance will be necessary for the Court to dismiss. However, if proof is not adequate for dismissal, the Court may issue FTA suspension of driving privileges and/or bench warrants as appropriate in the discretion of the Court.

(2) Statutorily Set Fines for Traffic Violations and Other Speeding Tickets.

Any Defendant may submit fines and court costs for both pre-payable and non-prepayable, statutorily set fines and court costs to the Circuit Clerk's office in advance of a court date. Any speeding citation for which the fine is not statutorily set may be submitted at the rate of \$100 plus statutory court costs. Such submission may be accepted by the Court as a plea of guilty by the Defendant and will release the Defendant from personal appearance. Defendants may also submit requests for referrals to State Traffic School which will be honored by the Court.

(3) Bench Warrants/Failure to Appear Suspensions of License.

In the discretion of the presiding judge, bench warrants and failure to appear suspensions of drivers license will not be recalled without the appearance of a defendant in court. Such requests to recall bench warrants and failure to appear suspensions of drivers license shall be placed on the docket by written motion of attorneys or defendants or at the telephonic or written request of Pre-Trial release officers.

Even without the personal appearance of the Defendant, the Clerk shall consider as recalled any bench warrant for fines and court costs which have been paid in full and shall notify DOT to recall any attendant FTA of a drivers license.

(4) Prepayable Offenses.

Upon review of the Clerk's Manual and the correspondence of the Administrative office of the Courts dated 1/5/00 to the Hardin Circuit Court Clerk regarding prepayable offenses, the following shall govern Prepayable Docketing by clerks:

(a) Prepayable Docket entries -- Prepayable citations shall be handled by the Clerk's office in accordance with the Clerk's manual. There shall be no "Prepayable docket" for judicial signature on those matters in which the Defendant pays prior to court or fails to pay and only an "FTA" of a driver's license is issued, or which payment is made and state traffic school is requested.. In the following cases there shall be a docket printed for judicial signature:

1. Request by a Defendant for a court date: Clerk shall set matter for a Trial by Court as the next scheduled appearance at 9:30 a.m. on a non-jury, non-juvenile court date in the time window of two (2) to six (6) weeks from the original prepayable date; clerk to notify the County Attorney's office to issue subpoenas for such trial date; clerk to notify Defendant by court notice of trial by court date. If Defendant demands trial by jury, he/she should be informed to request a trial by jury from the judge when the court date is held; or

2. Request by Defendant to Dismiss on Proof filed: clerk to run docket sheet and enter tendered disposition after review of proof of license, insurance or registration for judicial review and signature.

(b) Statutory Corrections. The Clerk may correct any notation by an officer on a citation to conform to the Kentucky Revised Statutes regarding whether the citation requires a court appearance or may be pre-paid into court in lieu of appearance. Any fines and court costs assessed by an officer as pre-payable shall be honored by the Clerk.

(c) Request by Counsel for a disposition date: Clerk shall set matter for appearance date as requested by Counsel in written motion or orally, without setting as a trial date unless requested, but in no event longer than one month from the original court date.

(d) Fish and Wildlife: The Clerk may accept pre-payment for any citation by Fish and Wildlife where there exists a statutory fine or a fine suggested by the citing officer on the citation and excuse the Defendant from appearance in Court.

(e) AI/PI: The Clerk may accept pre-payment for any citation for Alcohol Intoxication or Public Intoxication at the rate set statutorily for Alcohol Intoxication and excuse the Defendant from appearance in Court.

4.07 Hardship License Requests. Defendants seeking Hardship Licenses following convictions in Driving Under the Influence cases may file the required Petition and Tendered Order and submit to the Clerk. The Clerk shall forward the same to the sentencing judge who shall review the matter in chambers and issue a written decision. It is permissible, but not necessary, to file a notice/motion for an 8:30/8:45 appearance to have the Court to review a Hardship License petition. The Hardin County Attorney has waived the requirement of written notice to allow in chambers review of such requests, unless notice is requested at the time of sentencing.

4.08 Bond.

(1) Felony releases.

Any Defendant released on bond, whether cash, partial cash or unsecured, recognizance or judicial recognizance for any felony offense shall be considered as being on conditions (1) to report to Pre-Trial Services on a weekly basis, (2) to not commit any other offenses/ have no new arrests, 3) to supply Pre-Trial Services with current address and phone numbers until completion of the case, and (4) to consume no alcohol or illegal drugs. If the charge is a felony drug offense the additional condition of submission to drug screens with Pre-Trial Release, both at random and on suspicion, shall be entered.

(2) Domestic Violence, Assault or Stalking Releases.

Any Defendant released on bond, whether, cash, partial cash, or unsecured, recognizance or judicial recognizance for any domestic violence, assault, or stalking offense, whether misdemeanor or felony, shall be considered as being on conditions (1) to have no contact with the alleged domestic violence victim other than to permit one phone call by a third party to request retrieval of personal clothing and effects and, if agreed, one time third party visit to retrieve any agreed items (with no direct contact) (2) to maintain a separate residence from the alleged domestic violence victim, and (3) to not commit any other offenses/have no new arrests/no violations of law.

(3) DUI Releases.

Any Defendant released on bond, whether cash, partial cash, or unsecured, or recognizance or judicial recognizance for any DUI offense shall be considered as being on conditions (1) to not commit any other offenses/have no new arrests/no violations of law, (2) to consume no alcohol or illegal drugs, and (3) to submit to alcohol or drug tests as requested by a peace officer or Pre-Trial Release Officer.

(4) All Other Misdemeanor Releases.

Any Defendant released on bond, whether cash, partial cash or unsecured or on recognizance or judicial recognizance for any other misdemeanor offense shall be considered as being on conditions to not commit any other offenses/ have no new arrests.

(5) Conversion to Fines and Court Costs.

Posting of all cash bonds which were made in the name of the Defendant may be converted by the Court for the payment of all fines and court costs without further notice to the Defendant and without further order of the Court.

6) Release of Bonds and Sureties.

It is the stated and established policy of this Court to follow the Rules of Criminal Procedure concerning bond surety and release of bonds and sureties. More specifically, The Rule of Criminal Procedure 4.54 (2) which states at this time:

Bail (bond) shall terminate

- (A) when the principal is acquitted or the prosecution is dismissed;
- (B) when the principal, following conviction, fails to file his notice of appeal within the time limit under Rule 12.04 (thirty days);
- (C) when the appeal taken by the Defendant is dismissed; or
- (D) on the effective date of an appellate decision affirming the conviction.

Therefore, the Court shall not retain a bond posted by a surety on behalf of a defendant until the defendant has paid any imposed fines. Rather, the clerk shall take such measures to ensure that following the conclusion of the above times that any such bond posted by a surety shall be released and returned to the surety poster or his designee.

(7) Bond Assignments.

Requests for bond assignments shall be made pursuant to R Cr 4.46(2) and shall be made by written motion on regular motion day at 8:30/8:45 with a tendered order confirming bond assignment, indicating distribution of full bond amount, and indicating bond to be distributed in accordance with Hardin Local Rules. Hardin Circuit Clerk shall not honor any bond assignment

filed which has not been confirmed by Bond Assignment Order by a judge. Bond assignments on bonds posted by defendants will not be honored until payment of fines and court costs has been made in full. A sample bond assignment form is attached.

(8) **Flagrant Non-support.**

Any person having been arrested on a Flagrant Non-Support charge shall remain incarcerated and shall not be eligible for Pre-Trial Release Criteria pending an appearance in Hardin District Court for arraignment and bond consideration.

(9) **Probation Revocation.**

Any person having been arrested for failure to appear at a Probation Revocation Hearing shall remain incarcerated and shall not be eligible for Pre-Trial Release Criteria pending an appearance in Hardin District Court for bond consideration or Probation Revocation Hearing.

4.09 Miscellaneous

(1) **"Good Time" Credits.** There shall be no service credits / "good time credits" for inmate work in community work service programs or for work conducted through the Hardin County Detention Center to any inmates sentenced by this Court.

(2) **ADE Notice to Attend.** At the time of entry of plea in any DUI case, the Defendant shall be referred to the KAPS Program for ADE referral and review. KAPS shall notify the Clerk on the Notice to Attend form of the state approved Alcohol and Drug Education provider with whom the defendant intends to enroll.

(3) **Prisoner Transport.** No prisoners shall be transported to Court except at the request of judges, pre-trial release officers or clerks of the court.

(4) **Theft by Deception Fees.** Pursuant to notice by the Hardin County Attorney: For checks issued prior to July 14, 2000, the merchant and County Attorney fee shall be assessed at \$15 each for a total of \$30. For checks issued July 14, 2000 and after, the merchant and County Attorney fee shall be assessed at \$25 each for a total of \$50 per check.

(5) **Theft by Deception Warrants.** Pursuant to KRS 455.160, a warrant shall issue for violations of KRS 514.040 when a warrant for theft by deception has been issued within the previous 90 days for the same defendant. This rule is to assure the appearance of the defendant in court.

(6) Withdrawn/Remand. A judicial docket entry of "Remand" in reference to a Motion to Revoke Probation shall be considered by the clerk as the same as "Withdrawn" for purposes of computer entry, as there is no intention to have a further date set without the filing of a new motion.

RULE 5 - - CIVIL PROCEEDINGS

5.01. Pre-trial Proceedings.

Pre-trial Conferences may be scheduled at the request of one of the parties or on the Court's own initiative. Pre-trial conferences shall be set for civil motion day of the division in which the case is filed.

5.02. Motion Calendar.

Motions in civil cases, including motions to set for trial, shall be filed at **least one week in advance** before the motion shall be heard and shall be filed for hearing as follows:

- (1) Elizabethtown Division: any Monday at 2:00 p.m. in Elizabethtown
- (2) Radcliff Division: any Tuesday at 2:00 p.m. in Radcliff.

5.03. Jury Trials.

(1) Jury trials will be held at the Justice Center in Elizabethtown on the jury dates assigned to the Judge of the Division in which the case is pending: Judge Shumate on the Wednesday, Thursday and Friday usually of the first and third weeks of the month following empaneling, and in the Judge Simcoe on Wednesday, Thursday and Friday usually of the second and fourth weeks of the month following empaneling, except during July and December when no petit jury is convened. Once begun, trials may be continued to any day of the week in the discretion of the presiding judge.

(2) Additional jury trials may be scheduled during those weeks beginning with the fifth Monday of a month, or during the months of July and December in the discretion of the presiding judges.

(3) Request for a jury trial in a civil case shall be made on a civil motion day pursuant to HDR 5.02, shall be accompanied by the required jury fee, and shall include a tendered Order with the following language:

On or before 14 days prior to said trial date, each party shall file with the Clerk of this Court a list of names and addresses of all witnesses (excepting parties) to be used by them at the trial, together with an itemized list of all special damages proposed to be proven at trial, and a list of all exhibits proposed to be introduced as evidence, which shall be shown by certificate of attorney. A copy of all exhibits

listed with the Clerk shall be provided to all opposing counsel or parties answering and not represented by counsel, unless said exhibits are too cumbersome and voluminous as to make same impracticable, in which case such exhibits shall be made available for viewing by all opposing counsel or parties answering and not represented by counsel. No other witnesses may be introduced or special damages proven or exhibits received in evidence than those disclosed as above set out, except by agreement of all parties or in the sound discretion of the Court for good cause shown.

5.04 Trials by Court.

All matters requesting Trial by Court shall be set for a Motion Day pursuant to HDR 5.02 to schedule such a Trial by Court and shall be accompanied by the same order for Trials by Jury as specified in HDR 5.03 (3). Trials by Court shall be scheduled by the presiding judge on any non-jury, non-juvenile day at a time to be specified in the discretion of the Judge and the Court calendar.

5.05. Settlements.

(1) Upon the settlement of any civil action which is set for trial, the parties shall immediately notify the Division Clerk of the fact of settlement.

(2) Upon the settlement of any action, an Agreed Order of either judgment or dismissal, signed by all parties or their counsel, shall be prepared and tendered to the presiding Judge for signature. Such Agreed Order shall be entered prior to the date of trial, if at all practicable.

RULE 6 -- MOTION PRACTICE -- All Divisions

6.01. Direct submissions. Any motion accompanied by an "Agreed Order", any motion for a default judgment, or any motion for a hardship drivers license may be filed with the District Clerk of the division and sent directly to the presiding Judge for review/submission. All other motions must be noticed for a hearing at Motion Hour pursuant to the type of case to be heard: Criminal HDR 4.02, Civil HDR 5.02, Probate HDR 9.01, Juvenile HDR 10.01, Guardianship, Mental and Disability HDR 12.02.

6.02. Service of Motions. Each motion shall be served upon opposing counsel or party not represented by counsel and entitled to notice and shall be as described in Civil Rule 5.02. All post-judgment motions must be served upon the opposing party.

6.03. Subject Matter. Each notice shall state therein, in general terms, the subject matter of the motion and the action of the Court requested by the movant.

6.04. Tendered Orders Required. No motion, including Motions to Suppress, Motions to Dismiss, and Motions for Bond Assignment, will be heard by the Court unless same is accompanied by a tendered order which the movant desires the Court to enter. Motions to Suppress and Motions to Dismiss shall be accompanied by tendered Findings of Fact and Conclusions of Law. Other Motions shall be accompanied by Findings of Fact and Conclusions of Law if such Findings and Conclusions are required by law to be made by the Court. Opposing counsel shall likewise tender its requested Order for the Court's review, prior to the date the motion is to be heard by the Court.

6.05. Hearings. Any hearing required pursuant to a motion will, at the calling of the motion, be heard at said time or assigned to a date and hour for hearing. Except for good cause shown, any motion requiring a hearing of more than 15 minutes or requiring witness testimony may be assigned for hearing at a specific time.

6.06. Incorrect case name or number. Any motion which is filed where the case number cited by the attorney does not correspond with the case name on file with the District Clerk's office shall be clocked in, but will be voided and returned to the attorney without placing on a docket for court review or action, noting that the matter was not placed on the docket as requested and the specific reason therefore; (e.g. "Unable to docket: case number does not match defendant name in Sustain.") It is not the responsibility nor authority of the Clerk/deputy clerk to correct any errors in case numbers or case names on motions filed by attorneys.

6.07. Fax transmissions. Fax transmissions are not acceptable as court filings. All motions must be filed by hard copy with original signatures to the District Clerk in order to be considered as filed and be placed on a court docket. Fax transmissions may be accepted in lieu of any telephonic conversations otherwise acceptable (e.g. first telephonic request for one week continuance of arraignment, notice of eviction settlement.)

6.08. Place of filing of motions. Eviction and Small Claims may be filed with the Circuit Clerk's office in either Radcliff or Elizabethtown. All other motions shall be filed in the Circuit Clerk's office in Elizabethtown.

6.09. Subpoena Issuance. The use of digitized signatures by the Circuit Clerk's Office or any issuing attorney is appropriate if authorized by the signatory for purpose of issuing subpoenas.

RULE 7 - - UNIFORM PROTOCOL FOR DOMESTIC VIOLENCE CASES

7.01. Emergency Protective Orders (EPOs) and Domestic Violence Orders (DVOs). Pursuant to KRS 403.735(3), the Hardin Circuit Court, the Hardin Family Court and the Hardin District court hereby set out the procedures for twenty four (24) hour accessibility to Emergency Protective Orders (EPOs) and Domestic Violence Orders (DVOs). These provisions shall be the same as those set by the Hardin Family Court (FCR Rule 15) and any revisions made by Hardin

Family Court and approved by the Kentucky Chief Justice shall be binding on Hardin District Court Rules as well, as of the effective date of the Family Court changes.

A current copy of Family Court Rule 15 and the Hardin County Domestic Violence Protocol are appended hereto and adopted as though fully set out herein.

RULE 8 - - SMALL CLAIMS COURT

8.01 Court Calendar. Small claims court will be held every Tuesday in both divisions at 10:00 a.m., unless otherwise directed by the Judge of the Division. Judges will generally alternate between Radcliff and Elizabethtown Civil Divisions pursuant to HDR 2.05.

8.02 Issuance of Summons.

Summons shall be issued to the address or addresses as noted by the Plaintiff in a Small Claims action. Summons shall be delivered to the Hardin County Sheriff Office unless otherwise requested by the Plaintiff. Plaintiff shall pay for Sheriff service directly to the Hardin County Sheriff any fee associated with such service. Hardin County Sheriff office shall use its best efforts to serve all Small Claims summonses with dispatch so that each Defendant shall have at least the statutory twenty days notice before the date set for the Trial by Court. The Hardin County Sheriff shall return to the Circuit Court Clerk any summonses for Small Claims that have less than twenty (20) days remaining before the date of the hearing. The Circuit Clerk shall re-issue the summons for those cases and notify the Plaintiff of the new date. The re-issue shall not require a new payment for filing or service.

RULE 9 - - PROBATE COURT

9.01 Court Calendar

Probate court will be held in both the Elizabethtown Division every Monday at 2:00 p.m. and the Radcliff Division every Tuesday at 2:00 p.m. For good cause shown, the presiding judge may allow probate matters to be heard at other days or times.

9.02 Filing Deadlines. Matters for probate court shall be filed with all proper fees and copies **at least by 2:00 p.m. two business days prior to the scheduled probate date.**

RULE 10 - - JUVENILE COURT

10.01. Court Calendar

Juvenile Court will be held on the non-jury Thursdays of the month (Division I will usually be the first and third Thursdays following the first Monday of the month) (Division II will usually be the second and fourth Thursdays following the first Monday of the month).

10.02. Docket Times. The following schedule shall govern the filing of matters for Juvenile Days:

- 8:30 Arraignments, Appearances with attorneys
- 8:35 Show Cause/ Proof
- 9:30 Dispositions / Motions which require no testimony and which can be heard in less than 15 minutes / Contempt
- 10:30 Adjudicatory hearings, Youthful Offender Hearings, and all motions which require witness testimony or which require argument in excess of 15 minutes

Detention hearings, and any other emergency matters that arise between regular Juvenile Days will be heard on any weekday at 10:00 a.m. or as otherwise set by the presiding judge, within the statutory parameters. Care shall be taken to avoid setting these matters on Tuesdays as no prosecutor is readily available or on jury days, unless no other alternative exists based on the Court calendar/holidays.

Each Judge reserves the right to assign a special adjudication date for a particular case on any given day.

10.03. Filing Deadlines. All matters for Juvenile Court shall be **filed one week in advance** of the juvenile docket, unless good cause is shown and advance permission from the judge is given.

10.04 Teen Court. Hardin District Court has in place a Teen Court program authorized by the Administrative Office of the Courts. A judge may assign a juvenile case for dispositional hearing/ recommendation through the Hardin County Teen Court Program. Only those cases in which the juvenile has made an admission and which are first or second time offenders shall be eligible for consideration for Teen Court referral. The final decision whether a case is appropriate for Teen Court processing is left to the sound discretion of the Judge, but shall be done only with the agreement of the Defendant and the Defendant's parents, if the Defendant is still a juvenile, and with the written waiver of rights to trial and counsel as noted on the Teen Court Referral forms. Teen Court recommendations are not binding on the sitting Teen Court Judge.

10.05 Notification of Victims. Pursuant to KRS 610.060, the Court hereby designates that the Hardin County Attorney's Office shall make all required victim notifications which may be made by regular mail or by telephonic contact by or at the direction of the County Attorney's office or designee such as a victim's advocate, if known.

RULE 11 - - FORCIBLE DETAINER/ EVICTION ACTIONS

11.01. Court Calendar. Forcible detainer/eviction actions will be heard in both divisions every Tuesday at 10:00 a.m. The clerk shall schedule dates for individual cases.

RULE 12 - - GUARDIANSHIPS, MENTAL HEALTH AND DISABILITY CASES

12.01. Court Calendar.

(1) Emergency guardianships, mental health and disability cases will be scheduled within the time limits of the applicable statutes on a Monday, Wednesday or Friday of any week at 9:30 a.m.

(2) Annual and biennial reviews and motions concerning guardianships, mental health and disability cases shall be heard with the Probate Docket of the Division under HDR 9.01.

(3) All disability and mental health jury proceedings shall be set on a day during the jury term at 9:30 a.m., preferably on Wednesdays.

12.02 Local Forms.

Hardin County has established a set of local form motions and orders to help pro-se litigants in the review and termination of guardianship cases. While court clerks may not give legal advice concerning the filing of motions or forms, if requested or if questions arise about what to file to terminate a guardianship, the court clerks shall give any pro-se litigant or attorney a copy of all of the Hardin County forms for their consideration and potential use.

RULE 13-- DRUG COURT

13.01. Establishment. Hardin District Court has established a Drug Court in conjunction with the Kentucky Administrative Office of the Courts. District Court cases, and those Circuit Court cases which may be referred for monitoring, may be referred for monitoring through the Drug Court Program for diversion or monitoring of probation as the case may be.

13.02. Eligibility. Eligibility shall be established by the Drug Court Team pursuant to the Administrative Office of the Courts and grant guidelines. Eligibility shall be reviewed upon written motion in the underlying case by a Defendant or his counsel or sua sponte recommendation of the Judge, review of past criminal records, review of the facts of the pertinent case, review of an assessment of drug severity (ASI) and other appropriate criteria. Eligibility staffing shall occur at least two times each month or as otherwise set by the Chief District Judge. Dates for eligibility staffing will be noted by the Chief District Judge on the monthly court planning calendar and will generally be held on the second Wednesday and fourth Monday at 3 p.m. in the Elizabethtown District Court.

13.03 Procedures. All procedures shall be governed by the Administrative Office of the Courts guidelines as interpreted by the Drug Court Team to apply to Hardin County, unless otherwise specifically set out herein.

13.04 Court calendar. Unless otherwise noted in the monthly planning calendar, Elizabethtown Division shall hold Drug Court on Monday at 1:00 p.m. each week and Radcliff Division shall hold Drug Court on Tuesday at 1:00 p.m. each week.

RULE 14- - MONITORING OF DISTRICT COURT PROBATIONERS BY PRIVATE AGENCY

14.01. The Hardin District Court adopts Supreme Court Rule 9.000 MONITORING OF DISTRICT COURT PROBATIONERS BY PRIVATE AGENCY as a local rule as hereinafter set out.

14.02. Statutory authority.

KRS 533.010 (12) permits a court to order a defendant to submit to probation monitoring by a private agency when it is in the best interest of the defendant and the public to do so. The following rules shall apply when a district court orders a private agency to supervise a defendant who has been convicted of a misdemeanor or traffic offense and placed on probation as an alternative sentence to imprisonment.

14.03. Referral to Private Agency -- Designation of Agency by Separate Order

A district court may refer a defendant convicted of a misdemeanor or a traffic offense to a private agency for monitoring in accordance with KRS 533.010(12) only when probation monitoring services are not being and cannot be performed by a governmental agency, a not-for-profit agency or volunteers. Hardin District Court declares that no such governmental agency, not-for-profit agencies or volunteers are available for district court probation supervision and hereby declares a need which shall be filled by separate appointment Order for the Hardin District Court probationary review agency.

14.04. Requirements of Private Agency.

To receive referrals from the district court, the private agency must:

A. be an independent contractor and not an agent, servant, or employee of the court;

B. have no individual or fiduciary financial relationship with a judge of the district in which the agency has been approved to provide services, nor with the judge's spouse, nor with a minor child of the judge residing within the judge's household;

C. not have as a principal officer, director or trustee, or the spouse of said officer, director or trustee, anyone related by blood or marriage within the third degree of relationship to any judge or the spouse of any judge in the district for which the agency has been approved to provide services;

D. maintain and provide upon request liability insurance in an amount equal to a minimum of \$1 million dollars;

E. agree in writing to accept pro bono referrals from the district court on a proportional basis with all other private probation companies providing approved services to a district court;

F. must provide the district court a written schedule of fees to be charged, including a sliding scale fee schedule for indigent defendants based upon the individual's ability to pay; and,

G. agree in writing to assess fees in strict conformity with the fee schedule submitted to and approved by the district court.

14.05. Requirements of District Court In Referring a Convicted Offender to a Private Agency

When utilizing a private agency for probation monitoring, the district court must:

A. assure the private agency has no discretion as to the terms or conditions of probation, including, but not limited to the condition of or the amount of restitution;

B. assure the private agency shall not collect any fines, fees and court costs for the district court;

C. approve all fees to be charged by the private agency, and assure all fees actually charged comply with the approved schedule of fees submitted to the district court;

D. assure no employee of the private agency is seated inside the bar within the courtroom;

E. assure the terms of probation or conditional discharge are clearly stated on the court's docket or other forms provided by the Administrative Office of the Courts and not on forms provided by the private agency;

F. assign pro bono cases proportionately to all private agencies approved by the district court to provide services to the court;

G. require all private agencies to report to the district court on a monthly basis all pro bono cases referred to such agency by the court and whether such agency accepted or rejected the pro bono referral and, if rejected, the reasons for such rejection.

14.06 Disqualification.

Non-compliance with the rule by any private agency shall constitute grounds for the district court to deny or rescind approval for the private agency to provide services to the district court.

14.07 Protocol Guidelines for Random Drug Testing and for Home Incarceration.

The Monitoring Program shall establish with the advice and consent of the Hardin District Judges Protocol/Guidelines for Defendants participating in Court ordered Random Drug Testing and Home Incarceration Programs. These protocol/guidelines shall be reviewed personally with each Defendant and each Defendant shall sign as understanding these conditions. A copy of the signed protocol/guidelines shall be provided to the Defendant at the time that he signs the same. If a Defendant is referred back to Court from the Monitoring Program for failure to abide by any of these protocol/guidelines, the original of the signed protocol/guidelines shall be filed with the Court as part of the referral back to court for further action.

RULE 15 -- GENERAL COURTROOM PROCEDURE/PRACTICE

15.01 No Smoking, Cell phones, Pagers. There will be no smoking permitted in the Courtrooms or hallways of Hardin District Court. Cell Phones and Pagers must be set in the "vibrate only/silent alarm" mode or be turned off so as not to create any nuisance or distraction in the courtroom.

15.02 Attorney Attire. All attorneys participating in a court proceeding shall wear suitable attire, in keeping with the dignity of the proceeding. It is expected that men will wear suits or coat and tie. It is expected that women will wear dress, suitdress, or pantsuit.

15.03 Head Attire. No head attire may be worn in the courtroom except for good cause shown.

15.04 Weapons. No weapons shall be permitted on or about any person in the courtroom or courthouse, except for law enforcement officers in their official duties.

15.05 Children. The presence of young children is discouraged, and if disruptive, they will be required to leave. Bringing young children to Court will not advance a case on the docket, nor will it hamper the ability of the Court to dispose of cases as necessary.

15.06 Counsel Tables. Unless the parties agree otherwise, or unless the Court for good cause shown directs, the Plaintiff or Commonwealth and counsel will occupy the counsel table nearest to the jury box in each courtroom. During trial, only the attorneys actively participating in a trial and the parties shall be seated at counsel tables. During motion days, only attorneys or those indicated by the Court otherwise, shall be seated at counsel tables.

15.07 Attorney Bias. No attorney shall by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation, or socio-economical status as directed to parties, witnesses, counsel, court staff or others.

15.08 Code of Professional Courtesy. This Court hereby adopts the Code of Professional Courtesy of the Kentucky Bar Association as may be amended from time to time.

15.09 Judicial, Staff, and Court Official Courtesy. This Court hereby recognizes the Rules of the Supreme Court in Canon 3.B.(4). A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and require similar conduct of lawyers and of staff, court officials and others subject to the judge's direction and control.

15.10. Objections. In jury trial, Counsel objecting to evidence or questions shall state the objection and the general nature of the basis of the objection only. If counsel desires to make further argument for reason for objection, counsel shall ask to approach the bench to argue the objections on the record at bench conference.

15.11 Time for summations. The Court may fix the amount of time allowed to counsel for each party for arguments for each party in all jury actions. Counsel may suggest to the Court the time limitation to be paced. If any party is dissatisfied with the time assigned by the court, objections must be noted at the time of the ruling of the Court in that case.

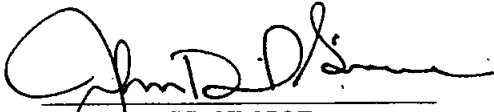
15.12 Improper Argument. No attorney shall assert in argument his personal belief in the justness of his client's cause or in the veracity of any witness. No attorney shall ask a jury to place themselves in the position of his client or of the opposing party.

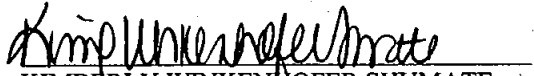
15.13 Contact with Jurors. After the conclusion of a jury trial and only after the final service of all jurors for that petit jury month, attorneys may contact jurors regarding trials on which the juror served or participated in voir dire. Each juror may decline to speak with any attorney. Attorneys are not to contact any juror until the final conclusion of all petit jury trials for that month so as not to create any appearance of impropriety or overreaching toward any juror.

15.14. Violation of Rules. No attorney shall, nor cause any one on his staff or acting on his behalf, violate these rules of conduct.

15.15. Official Record. The Official Record of the Hardin District Court shall be made on either video or audio recording whichever is more readily available and in working condition.

THESE LOCAL RULES ARE INTENDED TO COMPILE ALL STANDING ORDERS OF HARDIN DISTRICT COURT AND THEREFORE THESE RULES AS ADOPTED SUPERCEDE ANY AND ALL CONTRADICTORY STANDING ORDERS PREVIOUSLY ON FILE FOR HARDIN DISTRICT COURT.


JOHN DAVID SIMCOE
JUDGE, HARDIN DISTRICT COURT
DIVISION I


KIMBERLY WINKENHOFER SHUMATE
CHIEF JUDGE, HARDIN DISTRICT COURT
DIVISION II

CERTIFICATE

I, RALPH BASKETT, Clerk of the Hardin Circuit/District Court, do hereby certify that the foregoing Rules of Practice were duly signed by the HON. JOHN DAVID SIMCOE and the HON. KIMBERLY WINKENHOFER SHUMATE, Judges of the Ninth Judicial District of Kentucky.

This 16th day of October 2006.


RALPH BASKETT
CLERK, HARDIN DISTRICT COURT

Bond Assignment

TO: Hardin District Court

Re: _____, Defendant in Case No. _____

I have personally posted cash bond in the above-styled case and hereby authorize:

- _____ 1. The payment of fines and costs of \$_____ to be paid from the cash bond and the balance to be refunded to me as poster.
- _____ 2. The payment of the 5% restitution fee to the Hardin Circuit Clerk and restitution in the amount of \$_____ to
_____ the Hardin County Attorney's Office Escrow OR
_____ the KAPS Program
- AND**
- _____ the balance to be applied first toward the payment of any fines and court costs and then any excess balance to be refunded to me as poster. OR
_____ the balance to be refunded to me as poster.

Signature of Bond Poster

Address and Phone Number

COMMONWEALTH OF KENTUCKY:
COUNTY OF HARDIN:

Subscribed and sworn to before me by _____, this _____ day of _____, 20_____.

Ralph Baskett, Clerk,

By: _____, D.C.